



Virginia ABC Enforcement Expert Review Panel

**August 26, 2015
1:00 PM – 4:00 PM**

**State Capitol
Senate Room 3**

DRAFT MEETING MINUTES

Members Present:

Travis Hill, Chief Operating Officer for the Virginia Department of Alcoholic Beverage Control
Ryant Washington, Special Policy Advisor for Law Enforcement for the Virginia Department of Alcoholic Beverage Control
Francine Ecker, Director Virginia Department of Criminal Justice Services
Wesley Reed, Sheriff Prince Edward County
Kevin Foust, Chief of Police at Virginia Tech
Robert Archer, President and Chief Executive Officer for Blue Ridge Beverage
Hayes Humphreys, Chief Operating Officer for Devil's Backbone
Laura Habr, Co-Owner of Croc's 19th Street Bistro
Christopher Konschak, Manager for MADD Virginia
Kurt Erickson, President at Washington Regional Alcohol Program
Abraham Axler President at University of Virginia Student Council
Christopher Jones, Mayor City of Harrisonburg
Barry Knight, Virginia House of Delegates, 81st District
Michael Herring, Commonwealth's Attorney for the City of Richmond
Donald Goodman, Chief of Police for the City of Radford
Paige Hawkins, Substance Abuse Prevention Specialist at James Madison University

Members Absent:

Mamie Locke, Virginia State Senator, 2nd District, Hanover
Ryan McDougle, Virginia State Senator, 2nd District, Hampton
W. Steve Flaherty, Superintendent Virginia State Police

1:05 Opening Remarks:

Brian Moran, Secretary of Public Safety and Homeland Security called the meeting to order, welcomed members of the public and thanked the expert review panel for their work and participation.

July 8, 2015 Meeting Re-Cap and Review of Minutes

Secretary Moran accepted a motion from Mr. Archer to accept the June 8, 2015 meeting minutes. The motion was seconded by Chief Goodman and unanimously approved.

Discussion and Recommendations: *Facilitated by Deputy Secretary of Public Safety and Homeland Security, Victoria Cochran*

Deputy Secretary Cochran shared draft recommendations with Panel members facilitated discussion to build consensus and finalize recommendations to be presented to Governor McAuliffe. Deputy Secretary Cochran noted that consensus does not mean unanimity and any concerns would be noted in the minutes and report.

Category 1: ABC Enforcement Structure

The following recommendations were presented to the Panel for discussion:

- 1. VSP Takes Over ABC Regulatory and Enforcement Functions*
- 2. Local Law Enforcement Takes Over ABC Enforcement Functions*
- 3. ABC Continues Improving Internal and External Practices Based on Panel Recommendations and EO No. 40 Actions Already Underway*

Deputy Secretary Cochran asked the Panel where enforcement should be located.

Mr. Archer stated that he has not seen any evidence suggesting that ABC enforcement should be removed from ABC. He further stated that moving ABC enforcement would likely result in a lesser focus on alcohol enforcement overall. Mr. Archer would like to see ABC better equipped to carry out all of their duties.

Delegate Knight stated he would like the administrative investigation report of the incident on March 18, 2015 to be released to the public. He shared he would like ABC enforcement to remain with ABC, but he anticipates that legislation will be entered in the 2016 Virginia General Assembly session to relocate enforcement and would like to have information from the report to justify maintaining the current structure of the agency.

Secretary Moran addressed Delegate Knight's concerns and noted the administrative report will not be released by the Governor per advisement by Counsel, as it includes sensitive personnel information and civil litigation is anticipated. He also shared the report supports ABC's reinstatement of the officers involved in the incident.

Delegate Knight expressed satisfaction with Secretary Moran's statement and will continue to support ABC enforcement remaining with the agency.

Deputy Secretary Cochran asked Panel Members if the Virginia State Police should absorb ABC enforcement.

CA Herring stated that Colonel Flaherty's presentation was compelling and that enforcement should remain with ABC. He feels that ABC should continue to develop MOUs with localities to guide their work and involvement in local enforcement and continue efforts to improve the agency.

Mayor Jones would like to see either a portion of enforcement moved under the VSP, or to see proper staffing, equipping and training of the ABC enforcement division and staff. He further stated that ABC agents should only be involved in local events or occurrences in a support capacity or for ABC licensed events. He stated that this is an application of training issue, not a training issue and the Commonwealth needs to be sure that this will never happen again.

Mr. Archer stated we should be focusing on preventing these incidences from happening again. Mayor Jones reiterated that he would like to ensure these events never occur again and expressed concern about the community's lack of trust with ABC.

Mr. Erickson noted he feels confident about COO Hill's capability to transform the culture of ABC. He expressed the importance of COO Hill instilling a no-tolerance policy for the tactics used on March 18th and in previous instances and the importance of sharing this intolerance with the public.

Consensus was reached by the Panel in adopting recommendation #3 (See Attachment A).

- *ABC Continues Improving Internal and External Practices Based on Panel Recommendations and EO No. 40 Actions Already Underway*

Category 2: Regulatory and Enforcement Priorities

The following recommendations were presented to the Panel for discussion:

1. *Prioritize regulatory responsibilities over enforcement*
2. *Prioritize and focus 'on premises' activities*
3. *Work collaboratively with local LE agencies*
4. *Engage in 'street level' activities in consultation with local LE or by MOU (req'd in higher ed communities)*

Deputy Secretary Cochran noted that ABC will establish written policies for all recommendations.

Mr. Erickson noted concern about "on premises" being defined as at a licensed establishment or during regulatory activities, as there could be unintended consequences including "slacking" on underage alcohol enforcement.

COO Hill clarified that ABC will focus on where underage persons are purchasing alcohol and work with licensees to prevent underage consumption. He reiterated ABC would not be stepping away from underage enforcement.

Mr. Korschak asked if "on premises" includes events such as Foxfield. COO Hill- Yes.

CA Herring addressed recommendation #4 and noted that "non exigent" should be added in order to prevent the language from being used as a weapon against ABC.

Mr. Axler asked whether ABC works with other officials related to substance use on college campuses or only with law enforcement agencies.

Chief Washington states that ABC primarily works with law enforcement.

Mr. Humphreys asked how much of a change in current protocol these recommendations represent. He would like to know how much of an impact these will have on the culture change.

COO Hill responded that this may not represent a huge change, but that both incidences occurred on licensed premises.

Lieutenant Colonel Northern stated that former governors have placed emphasis on enforcement rather than regulation and that if the Panel recommends ABC return to a focus on regulatory activities, the recommendation should be formalized so the next Administration does not revert back to a focus on enforcement without serious study and consideration.

COO Hill emphasized the importance of agents having clear expectations. He stated agents are willing to comply with all expectations, but they are also looking for clarity and an understanding of what is expected of them.

Consensus was reached on all recommendations, including CA Herring's recommended change.

Category 3: Training

The following recommendations were presented to the Panel for discussion:

- 1. Train all new recruits per EO 40 standards*
- 2. Mandate 8 hours of evidence-based annual compulsory in-service training to all LE personnel in targeted areas*
- 3. Mandate LE supervisors complete ABC agency wide supervisory training (under development)*
- 4. Mandate completion of 20 hours LE supervisory curriculum biennially*
- 5. Review and revise FTO curriculum*
- 6. Encourage joint training with local LE agencies*

The Panel reached consensus on recommendation #1.

Mr. Erickson asked if the eight hours of training for recommendation #2 properly address de-escalation techniques.

Chief Washington responded that the eight hours can be modified based on need.

Chief Goodman asked if this training would be similar to normal law enforcement training.

Chief Washington- Yes.

Ms. Hawkins would like to see something in writing to address fidelity to ensure supervisors are evaluating whether training standards are being practice.

COO Hill responded and said performance records should be regularly reviewed by supervisors.

Ms. Hawkins asked how often this is currently happening and COO Hill shared that it should be happening more frequently and ABC should be doing better.

CA Herring wants to avoid variation by region with training. He would feel more confident in the fidelity of training if DCJS certified the training. Director Ecker assured him that DCJS would work closely with ABC.

Mr. Humphreys asked how much a separate supervisory training program would cost. COO Hill responded that some recommendations would have a fiscal impact.

Consensus was reached on all five recommendations.

Category 4: Transparency, Accountability and Reporting

The following recommendations were presented to the Panel for discussion:

- 1. Require supervisors to meet monthly with and review each agent's activities and report*
- 2. Require development and implementation of annual regional strategic plans including input from stakeholders*
- 3. Require quarterly reporting of specified information to Sec'y PSHS; assure citizen access*

Several Panel members expressed concern about recommendation #1, as meeting with agents monthly could create an un-due burden for supervisors and create a less meaningful review process. Several law enforcement officials recommended a tiered system for reviews.

Mayor Jones emphasized the importance of regular reviews, especially moving forward initially to ensure there is no gap in training.

CA Herring stated that research demonstrates that we can “overdose” on supervision and the quality of review often suffers with increased frequency. He recommended the COMSTAT model.

Further concerns were expressed by Panel members about overburdening supervisors and that ABC may not have enough personnel to handle this burden. Panel members also agreed they do not want this review to be an exercise to simply “check the box” every 30 days.

Ms. Hawkins asked what the current ratio of supervisor to agent is. COO Hill responded that on average, 3:1, but some localities have more agents than others.

Based on the discussion, the Panel reached consensus on replacing recommendation #1 with the following language: ABC shall develop a supervisory plan to ensure oversight and compliance with ABC policies and the mission of the agency.

The Panel reached consensus on recommendation #2.

Mr. Axler asked if a recommendation could be added requiring ABC to seek an outside review for any instances involving use of force.

Many panel members expressed great concern with Mr. Axler's recommendation and did not want to create a precedent for local law enforcement agencies that would require them to conduct an outside review. CA Herring noted that unfounded complaints are filed frequently.

Mayor Jones highlighted the importance of and supported Mr. Axler's recommendation.

Mr. Archer expressed concern and felt that requiring an outside review would not be a good use of resources.

The Panel reached consensus and agreed this recommendation should not be presented to Governor McAuliffe, but should be noted in the minutes.

COO Hill stated that ABC will look at internal review and make sure results of any use of force complaints are shared with the complainant.

Category 6: Outreach to Institutions of Higher Education (This recommendation was taken out of order.)

The following recommendations were presented to the Panel for discussion:

1. *Establish liaison relationships between ABC, local law enforcement and institutions of higher education*
 - *Targeted outreach to college communities (summits, classes and interaction outside enforcement paradigm); seek opportunities for agents to address community outside of usual role*

Ms. Hawkins would like to see agents more engaged in ABC education, as there are strong ties to higher education.

Mayor Jones would like to see athletes and public school systems included in this outreach.

Chief Goodman shared he now realizes most communities do not know ABC agents and recommendations from the Panel should address that.

COO Hill would like to see stronger relationships with students outside of enforcement.

Ms. Hawkins would like to ensure any ABC outreach to universities and colleges is embedded in current alcohol prevention and message is consistent.

Mayor Jones stated the Panel must recognize the resources and he is concerned this is asking too much of agents.

The Panel reached consensus on all recommendations and support Mayor Jones' recommendation to include additional student groups.

Category 5: Accreditation

The following recommendations were presented to the Panel for discussion:

1. *ABC should achieve and maintain accreditation through a state or national law enforcement accrediting body*

The Panel reached consensus on this recommendation.

Category 7: Increase ABC Personnel

The following recommendations were presented to the Panel for discussion:

The Panel reached consensus on this recommendation and noted that ABC should determine what this should look like.

Category 8: Body Cameras

The following recommendations were presented to the Panel for discussion:

1. *Implement use of body worn cameras*

Director Ecker shared that DCJS is currently in the process of developing a model policy for body-worn cameras and Secretary Moran noted the policies will be ready prior to implementation.

CA Herring stated that it does not make sense for agents to activate cameras during regulatory activities, especially given the expense of retention and storage. The model policy should allow ABC to tailor to enforcement activities. Mayor Jones concurred.

The Panel reached consensus on this recommendation and would like to include flexibility to allow for recording only during enforcement activities.

Category 9: ABC Licensee Expedited Suspension Process

The following recommendations were presented to the Panel for discussion:

1. *Legislative/regulatory solution to more immediately address licensees posing an imminent threat to public safety*

The Panel reached consensus on this recommendation.

Public Comment:

Sam ** stated messaging with ABC is not the only problem and he feels the public and institutions of higher education distrust ABC for good reason. He is unhappy the public does not have the facts about the incident, as the report was not released. He stated ABC agents should not be under cover and should be required to be in uniform. He feels UVA and other campuses do not feel ABC agents have public safety in mind and agents are not fair in their decision-making.

Mr. Lisk shared that retail licensees support regulatory activities and that ABC enforcement needs additional resources. He hopes ABC will remain committed to underage enforcement, as focusing only on retailers will not sufficiently address the problem. ABC should also focus on

prevention and education, as most providers of alcohol to underage persons are of-age friends or family.

4:00 Closing Remarks/Adjourn:

Brian Moran, Secretary of Public Safety and Homeland Security thanked the members of the panel and the public. Secretary Moran stated the minutes and recommendations would be sent out to Panel members for review and approval prior to submission to Governor McAuliffe.